GOVERNMENT OF INDIA
CULTURE
LOK SABHA

UNSTARRED QUESTION NO:313
ANSWERED ON:01.03.2007
AMENDMENT IN ANTIQUITIES AND ART TREASURES ACT,1972
Adsul Shri Anandrao Vithoba

Will the Minister of CULTURE be pleased to state:

(a) whether the Government has decided to make amendment in the Antiquities and Art Treasures Act, 1972 to keep an eye on export and import of antiques;

(b) if so, the details thereof ;

(c) whether the proposed law is likely to be made more stringent with a view to make offences cognizable ;

(d) if so, the details thereof ;

(e) whether the Government has decided to take up the matter with those countries where the artifacts have been smuggled; and

(f) if so, the details thereof ?

Answer

MINISTER OF THE STATE IN THE MINISTRY OF TOURISM AND CULTURE (SMT. AMBIKA SONI)

(a)to(d) Yes, Sir. The Government is proposing to make amendments to the Antiquities and Art Treasures Act, 1972 to make the provisions more stringent with a view to curb illegal trafficking in antiquities.The proposed amendments provide for periodical verification of the registered antiquities, higher punishments for commission of certain offences punishable under the Act, restriction on transfer of antiquities to foreign nationals, restrictions in making unauthorized replicas of antiquities, making certain offences under the Act non-cognizable and non-bailable, etc.

(e)&(f) Whenever reliable information is received about the presence of smuggled Indian antiquities in any other country,steps for its retrieval are being taken up in accordance with the establishment procedures.Details of such cases under process presently are at Annexure.

ANNEXURE

CASES UNDER PROCESS FOR RETRIEVAL OF INDIAN ANTIQUITIES FROM ABROAD.

(i) Five sculptures from British Museum, London.

(ii) Astronomical Tools (5) from Egypt.

(iii) One sculpture of Thirthankar from Washington.

(iv) One sculpture of Nataraj from London (U.K.).

(v) One sculpture of Varah from Switzerland.

PROPOSED AMMENDMENTS TO THE THE ANTIQUITIES AND ART TREASURES ACT, 1972

The Antiquities and Art Treasures Act, 1972 was enacted to regulate the export trade in antiquities and art treasures, to provide for the prevention of smuggling of, and fraudulent dealing in, antiquities, to provide for the compulsory acquisition of antiquities and art treasures for preservation in public places and to provide for certain other matters.

2. During last three decades, certain lacunae and shortcoming in the provision of the said Act were noticed which had diluted the effectiveness of the aforesaid Act. With the growth of the international market for art and antiquities, the global problem of the smuggling of antiquities has increased over the years. Consequently, the law enforcing agencies such as the Central Bureau of Investigation and Directorate of Revenue Intelligence have been facing difficulties in the prevention of smuggling of, and fraudulent dealing in, antiquities.

3. An Inter-Ministerial Committee comprising of Archaeological Survey of India, various law enforcing agencies such as the CBI, Department of Revenue Intelligence and Customs discussed the practical problems in the implementation of the provisions of the aforesaid Act and suggested certain amendments in the provisions of the aforesaid Act.

4.In view of the above, it is now proposed to amend the Antiquities and Art Treasures Act, 1972, inter alia, to-

(a) regulate exchange of or giving on returnable basis of any antiquities or art treasures from museums or excavated sites to any foreign agency or authority for the benefit of scholars to study the cultural wealth of countries, under an agreement entered into by the Central Government.

(b)amend section 7 of the said Act, which requires person to apply for license to carry on business of selling or offering to sale antiquities, so as to enable the person desiring to carry on the business of buying or offering to buy antiquities to make an application for license;

(c) provide for verification of the registered antiquities by the concerned Registering Officer periodically once in every three years so as to confirm the existence and location of the antiquities so as to keep track of the antiquities.

(d) provide that no change, alteration or addition in the form, format, structure or appearance of antiquity, purporting to change its character after its registration shall be made without prior approval of the Director General, Archaeological Survey of India;

(e) amend section 14 to ensure that any loss, accidentally or otherwise, damage, debasement or alteration of registered antiquity shall be reported to the Director General, Archaeological Survey of India;

(f) insert new section 16A to prohibit foreign nationals to acquire ownership, control or possession of any antiquity specified by the Central Government so as to prevent illicit trade of antiquities or art treasures I the guise of transfer of ownership in the name of foreign nationals and make contravention of this new section punishable with imprisonment for the term which may extend to five years and with fine shall not be less than ten thousand rupees and provide for confiscation of such antiquities;

(g) insert new section 16B to prohibit preparation of the true replica of any antiquity or art treasures by any person other than Director General, Archaeological Survey of India and make contravention of this new section punishable with imprisonment for a term which may extend to five years and with fine which shall not be less than ten thousand rupees and provide for confiscation of such antiquities;

(h) cast an obligation on the person making change of location of the antiquity to intimate the concerned Registering Officers and the Director General, Archaeological Survey of India the change in location of the antiquities;

(i) provide that burden of proving whether any person is owner of any antiquity which he is in his possession, shall be on the person from whose possession such antiquity is found;

(j) provide keeping of record of every antiquity and arts treasures along with photograph of each antiquity and art treasures kept in certain museum or office or archive or educational or cultural institution and also keeping of such record open for inspection by the Director General, Archaeological Survey of India or his nominee;

(k) offence made cognizable and non-bailable;-The Cabinet decision dated 18.12.2003 approved insertion of a new Section 26A making offences punishable under the Act as cognizable and non-bailable. While the proposed new section is appropriate in respect of most of the major offences, it is felt that the offences relating to non-registration of antiquity and non-reporting of transfer of ownership, which are relatively minor offences, should not be put in the same category.As such, it is proposed that these two offences may continue to be treated as non-cognizable and bailable.

(l) The offence on non-registering an antiquity for non-report of transfer of ownership of an antiquity, the offences may continue to be treated as non-cognizable and bailable.

(m) confer power of entry, search and seizure upon any public servant, as defined in the Indian Penal Code 1860 authorized in this behalf by the Director General or any police officer (above the rank of Dy. Superintendent of Police) as defined in the Police Act, 1861 including an officer associated with the special police force constituted under any special enactment such as the Delhi Special Police Establishment Act, 1946, with a view to securing compliance with the provisions of the aforesaid Act;

(n) provide for constitution of Expert Advisory Committee to decide whether an article, object or thing or manuscript, record or other document is or is not an antiquity or art treasure;

(o) provide for constitution of Appeal Committee to hear appeals of the person aggrieved by the Expert Advisory Committee;

(p) provide for constitution of the National Screening and Evaluation Committee to examine and evaluate any antiquities or art treasures and recommend to the concerned authority for issuing necessary permit or license for export thereof for exhibiting them outside India on returnable basis

5.The Bill seeks to achieve the above objects.

ANNEXURE-II

(i) Five sculptures from British Museum, London through Indian High Commission London

(ii) Five Astronomical Tools from Egypt

(iii) 1 Sculptures Thirthankar from Wasington

(iv) One sculpture of Nataraj from London (U.K.)

(v) 1 sculpture of Varah from Switzerland